

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

CLEAR WITH COMPUTERS, LLC,

Plaintiff,

v.

HYUNDAI MOTOR AMERICA, INC.

Defendant.

Civil Action No.

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement of U.S. Patent No. 7,606,739 in which Clear with Computers, LLC makes the following allegations against HYUNDAI MOTOR AMERICA, INC. (the “Defendant”).

PARTIES

1. Plaintiff Clear With Computers, LLC (“CWC”) is a Texas limited liability company with its principal place of business at 207 C North Washington Avenue, Marshall, Texas 75670. CWC was formerly known as Orion IP, LLC.

2. Defendant HYUNDAI MOTOR AMERICA, INC. (“HYUNDAI”) is a California corporation with its principal place of business at 10550 Talbert Avenue, Fountain Valley, California. HYUNDAI has appointed National Registered Agents, Inc., 300 S. Phillips Ave, Suite 300, Sioux Falls, SD 57104-6322 as its agent for service of process.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendant has transacted business in this district, and has committed, induced and/or contributed to acts of patent infringement in this district, including via their websites noted hereinbelow.

5. On information and belief, Defendant is subject to this Court's specific and general personal jurisdiction, including via its websites noted hereinbelow, pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this Judicial District.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 7,606,739

6. CWC is the owner by assignment of United States Patent No. 7,606,739 ("the '739 Patent") entitled "Electronic Proposal Preparation System." The '739 Patent issued on October 20, 2009. A true and correct copy of the '739 Patent is attached as Exhibit A.

7. Jerome D. Johnson is listed as the inventor on the '739 Patent.

8. Upon information and belief, Defendant HYUNDAI has been and now is directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '739 Patent in the State of Texas, in this judicial district, and elsewhere in the

United States by, among other things, making and/or using supply chain methods, supply chain systems, sales methods, sales systems, marketing methods, marketing systems, inventory methods and/or and inventory systems covered by one or more claims of the '739 Patent, including in connection with various websites (including, but not limited to, www.hyundaiusa.com, www.hyundaigenesis.com, the Hyundai Dealer Communication System, www.elantratouring.com and similar systems and methods) to the injury of CWC. Defendant HYUNDAI is thus liable for infringement of the '739 Patent pursuant to 35 U.S.C. § 271.

9. On information and belief, to the extent any marking was required by 35 U.S.C. § 287, all predecessors in interest to the '739 Patent complied with any such requirements.

10. As a result of HYUNDAI'S infringement of the '739 Patent, CWC has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless HYUNDAI'S infringing activities are enjoined by this Court.

11. Upon information and belief, Defendant HYUNDAI'S infringement of the '739 Patent has been willful, and CWC is entitled to enhanced damages relative to the same.

12. Unless a permanent injunction is issued enjoining HYUNDAI and its agents, servants, employees, representatives, affiliates, and all others acting in active concert therewith from infringing the '739 Patent, CWC will be greatly and irreparably harmed.

PRAYER FOR RELIEF

WHEREFORE, CWC respectfully requests that this Court enter:

1. A judgment in favor of CWC that Defendant HYUNDAI has infringed, directly, jointly, and/or indirectly, by way of inducing and/or contributing to the infringement of the '739 Patent, and that such infringement was willful;

2. A permanent injunction enjoining Defendant HYUNDAI and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert therewith from infringement, inducing the infringement of, or contributing to the infringement of the '739 Patent;

3. A judgment and order requiring Defendant HYUNDAI to pay CWC its damages, costs, expenses, and prejudgment and post-judgment interest for Defendants' infringement of the '739 Patent as provided under 35 U.S.C. § 284;

4. An award to CWC for enhanced damages as provided under 35 U.S.C. § 284;

5. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to CWC its reasonable attorneys' fees; and

6. Any and all other relief to which CWC may show itself to be entitled.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

October 20, 2009

Respectfully submitted,

CLEAR WITH COMPUTERS, LLC

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